

**RULES OF COURT
FOR THE CIRCUIT AND SUPERIOR COURT
OF THE 56TH JUDICIAL CIRCUIT
HUNTINGTON COUNTY, INDIANA**

**ORDER ADOPTING RULES OF PRACTICE
AND PROCEDURE IN THE CIRCUIT AND SUPERIOR COURT
OF THE 56TH JUDICIAL CIRCUIT**

These rules are adopted pursuant to the authority of Indiana Rules of Trial procedure, T.R. 81, and are intended to supplement those rules as well as the Indiana Rules of Criminal Procedure. They shall govern the practice and procedure in all cases in the Huntington Circuit and Superior Courts, and shall be construed to secure the just, speedy and efficient determination of every action.

It is Ordered that all existing local rules of Court for the Circuit and Superior Courts of the Fifty-Sixth (56th) Judicial Circuit, Huntington County, Indiana, relating to rules of general, civil, probate, domestic relations, and criminal practice and procedure, shall be and hereby are revoked as of January 1, 2007.

Pursuant to TR 81(D) the court finds that just cause exists to deviate from the schedule established by the Indiana State Court Administration. It is therefore Ordered that the following general local rules relating to practice and procedure in the Circuit or Superior Court of the Fifty-Sixth (65th) Judicial Circuit, Huntington, Indiana, be and the same are hereby adopted, effective on January 1, 2007.

Dated this _____ day of _____

HON. JEFFREY R. HEFFELFINGER
HUNTINGTON SUPERIOR COURT

HON. THOMAS M. HAKES
PERMANENT JUDGE PRO TEM
HUNTINGTON CIRCUIT COURT

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**CIVIL DIVISION
LOCAL RULES**

LR 35-TR-3.1-1

REQUIREMENTS TO ASSURE RECOGNITION OF COUNSEL

- (A) *GENERAL.* Except by leave of Court, an appearance by counsel shall be made in writing and filed with either the Clerk of the Court or in open Court. It shall contain the appearing person's name, address, phone number and fax number. A copy thereof must be served on the other counsel or pro se parties.
- (B) *APPEARANCE PRO SE.* A party proceeding pro se is acting as his/her own attorney and shall be subject to rules of practice and procedure unless, by its nature, a rule does not apply to such party.
- (C) Every pleading, motion or paper filed with the Court shall clearly identify the name, address, and telephone number of the attorney representing the party filing the pleading. The individual attorney responsible for the prosecution or defense of the case shall make certain that his name thereafter appears on the docket sheet of the cause. All documents for filing shall have as a part of the documents the first twelve digits of the uniform case numbering system as adopted by the Supreme Court of the State of Indiana.

Suggested typewritten orders shall be submitted to the Court in all matters, including criminal matters (when applicable).

- (D) All orders submitted to the Court, with the exception of orders submitted in ex parte matters, shall be in sufficient number in order that the original and one (1) copy may be retained by the Clerk and a copy may be mailed to or served on each affected party. The

original and one (1) copy of all briefs, memorandums, and motions shall be filed in any matter, except ex parte matters, unless the Court otherwise directs.

- (E) All written orders submitted to the Court for signature shall be single spaced, and shall bear in the lower left hand corner of the final page an indication of the attorney submitting such order, in order that signed copies may be delivered to such attorney for distribution.
- (F) Unless a pleading, motion or paper is personally verified by another person, any pleading, motion or paper which is not signed by at least one attorney of record as required by Indiana Trial Rule 11, or which is found not to be in conformity with the above rules shall not be accepted for filing by the Clerk. A rubber stamp or facsimile signature on the original copy of such pleading shall not be acceptable. This requirement shall not apply to papers personally verified by a party.

If such pleading or order is inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record unless substantial prejudice would be caused to a party by that striking.

- (G) *SMALL CLAIMS.* Attorney must enter appearance in writing as above. Said appearances are deemed general denials.

LR 35-TR-3.1-2**WITHDRAWAL OF APPEARANCE**

- (A) WITHDRAWAL. Counsel desiring to withdraw appearance in any action shall file a petition requesting leave to do so. Such petition shall fix a date for such withdrawal, and petitioning counsel shall file with the Court satisfactory evidence of at least ten (10) days written notice to his client in advance of such withdrawal date, or evidence of vigorous attempt to contact such client. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of the foregoing requirements. No withdrawal of appearance shall be granted where it would deprive the Court of its jurisdiction over the party.

LR 35-AD-12-3**FILING OF DOCUMENTS BY FACSIMILIE TRANSMISSION**

- (A) Pursuant to Administrative Rule 12, the Huntington Circuit and Huntington Superior Courts hereby authorize the filing of pleadings, motions, and other documents via electronic facsimile at facsimile machine telephone number of : Circuit Court - (260) 358-4813
Superior Court - (260) 359-4415

A party making a facsimile filing shall mail the original document to the Clerk on the same day that the facsimile is sent.

- (B) (Time of Filing)
Facsimile filings shall be made between 8:00 a.m. and 4:30 p.m. Facsimile filings received after 4:30 p.m. shall be deemed filed on the next business day.

LR 35-FL-00-4

REQUIREMENT FOR PARENTAL CLASS IN DISSOLUTION CASES

- (A) Prior to the Courts granting a Petition for Dissolution of Marriage or Petition for Legal Separation; or prior to scheduling a final hearing in cases where the parties have minor children, each party must complete the Children Cope with Divorce or a similar program to learn about and discuss the effect that divorce and the changing family situation has on children and file proof of completion.

LR 35-TR-5-5

FORM AND STYLE OF PAPERS AND MANNER OF SUBMISSION

- (A) All papers submitted to the Clerk of the Court for filing shall be flat, unfolded, and prepared on 8 ½" x 11" size papers. Typewritten pages shall have no covers or backs, shall be fastened together at the top and at no other place.
- (B) All pleadings shall be file stamped before being submitted for notation on the docket sheet, unless filed by mail. After file stamping the documents, the attorney shall retain his copy or copies for his own use or for service upon opposing parties. In all cases where pleadings or other official papers are filed of record with the Clerk of the Court by mail, said Clerk shall not return filed copies of such pleadings or official papers unless a stamped self-addressed envelope, bearing sufficient postage is included with the filing.
- (C) Filings not requiring action by the Court may be submitted to the Reporter for entry by proposed docket entries. Filings requiring

action by the Court should be submitted to the Court in person, or by submitting a proposed docket sheet entry on minute sheets.

- (D) Agreements arrived at by the parties, whether before or at the time of hearing, shall be required to be submitted in written form by the parties with a proposed order approving such agreements.
- (E) Motions for Change of Venue from the County or the Judge under the Indiana Trial Rules shall state within the motion whether they are timely filed, and if not, shall set out the grounds and be verified as required by rule.
- (F) Any pleading, which is found not to be in conformity with the above rules, shall not be accepted for filing by the Clerk. If such pleads or orders are inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record unless substantial prejudice would be caused to a party by that striking.

LR 35-TR-5-6

HEARING ON MOTIONS

- (A) The filing of any motion with the Clerk of the Court or with the Court, which requires oral argument or hearing before the Court shall be brought to the attention of the Judge by the party filing same within three (3) days of such filing.
- (B) The time of hearing motions shall be fixed by the Court. Dates of hearing shall not be specified in the notice of hearing or the motion unless prior authorization shall be obtained from the Judge, his Reporter or Bailiff. Any party may request oral argument or a

hearing upon a motion, but the granting of oral argument is wholly discretionary with the Court.

- (C) In appropriate cases, upon request of counsel or upon order of the Court, hearing may be held by teleconference with all attorneys or parties of record.

LR 35-TR-53.5-7

CONTINUANCES

- (A) Motions for Continuance, unless made during the hearing of the cause, shall be in writing and verified. The motion shall be specific with regard to the reason for the requested continuance, including the caption, cause number and Court and if the continuance is requested due to a conflict with a case that was scheduled prior to the date in the pending cause of action. Said motions shall contain as a part thereof a statement that opposing counsel has been previously notified of the request, and an indication of the acquiescence or objection of opposing counsel to said continuance. Further, said motions shall contain an estimate of the time required for the hearing of the cause. Parties or their attorneys are not to assume a Motion for Continuance will be sustained until so informed by the Court.
- (B) The Court, in its discretion, may require any written Motion for Continuance to be signed by the party requesting same.
- (C) All delays and continuances of a cause shall be at the costs of the party causing the same, except where it is otherwise provided by law. The Court may further award such costs as will reimburse the other parties for their actual expenses incurred by the delay.

LR 35-TR-5-8

NOTICE TO ATTORNEYS

In all cases where it is necessary for the Courts to give notice to attorneys of record in matters pending therein, concerning hearings, arguments, ruling, or any other matters, it shall be sufficient and binding notice if the following procedures are followed:

- (A) For attorneys maintaining an office within the territorial boundaries of Huntington County, Indiana, or contract Public Defenders it shall be sufficient notice of the above matters if a written copy of the notice of hearing, argument, ruling or other matter is deposited in a box bearing the attorney's name, located in the office of the Huntington County Circuit Court Law Library. The boxes bearing the Huntington County attorney's names, located in the Law Library office of the Court Reporter of Huntington County Circuit Court shall be used by the Superior Court also.
- (B) In cases where it is necessary to give notice to attorneys not maintaining an office within the territorial boundaries of Huntington County, Indiana, it shall be sufficient and binding notice if a written copy of such notice is mailed by ordinary mail to said attorney, at the address contained in their appearance of other pleadings.
- (C) All other notices required by law or Court rules, including the service of pleadings on opposing counsel, shall be served in accordance with Rules of the Supreme Court of the State of Indiana and applicable statutes.

LR 35-TR-16-9

PRE-TRIAL CONFERENCES

- (A) There shall be a pre-trial conference in every case, civil and criminal, with the exception of dissolution of marriage and attendant actions, paternity, mental health and juvenile actions. Pre-trial conferences in actions excepted by this rule may be held only upon request or upon the Court's own motion.
- (B) In all cases, discovery should be completed on or before the date for the pre-trial conference, unless otherwise ordered by the Court. For good cause shown, additional discovery may be ordered at any time prior to the date of the trial.
- (C) Parties shall be prepared at the time of the pre-trial conference to discuss the status of any pending motions, to discuss whether further motions shall be filed with the Court and their subject matter, to enter in any stipulations regarding facts or exhibits, to indicate to the Court any unusual aspects of the case or any unusual instructions anticipated to be requested, and to discuss the possibility of settlement of the issues.
- (D) In all civil cases to be tried to a jury, counsel shall prepare and file with the Court a proposed pre-trial order to be submitted to the Court no later than ten (10) days prior to the date the cause is set for trial. Counsel shall further file at that time proposed preliminary instructions on the issues to be decided at trial.
- (E) In all cases to be tried to a jury, counsel for the respective parties or the State of Indiana shall submit proposed final instructions to the Court no later than ten (10) days prior to trial. Such proposed

instructions shall be submitted under separate cover, in duplicate, with one set bearing the number of the tendered instruction and any supporting authority, and the other without any markings indicating the party submitting the instructions, with the exception of the attached cover sheet.

- (F) The Court may issue an order requiring alternative dispute resolution in any civil action, with the exception of paternity, mental health and juvenile actions.

LR 35-TR-33-10

INTERROGATORIES

- (A) A party serving written interrogatories pursuant to the Indiana Rules of Procedure shall provide two (2) copies to each party required to answer the same. The interrogatories shall contain, after each interrogatory, a reasonable amount of space for entry of the response or objection.
- (B) The number of interrogatories, including subparts, shall not exceed 40 without seeking leave of the Court to file a greater number of interrogatories.
- (C) Interrogatories shall be used solely for the purpose of discovery in the captioned case.
- (D) The answering party may attach an addendum to the copies if the space provided is found to be insufficient. In any event, answers or objections to interrogatories shall include the interrogatory being answered or objected to immediately preceding the answer or objection.

LR 35-TR-26-11

DISCOVERY

- (A) All items and information which is the lawful subject of discovery in any civil case pending in the Huntington County Circuit Court or the Huntington County Superior Court shall be exchanged between the adversary parties without formal request up to the trial or the pre-trial conference, if one is held.

- (B) To curtail undue delay in the administration of justice, the Court shall refuse to rule on any motion for discovery and production of documents under Trial Rule 27 through Trial Rule 37 of the Indiana Rules of Civil Procedure unless the moving counsel shall first advise the Court, in writing, that after personal consultation and sincere attempts to resolve differences, an accord cannot be reached. The statement shall recite, in addition, the date, time and place of such consultation and the names of all parties participating therein. If any counsel has refused to meet or has delayed the meeting and discussion of the problems covered in this subsection, then the Court may take such action as is appropriate to avoid delay.

LR 35-FM-00-12

DISSOLUTION PROCEEDINGS

At least ten (10) days prior to the time of the final hearing on any contested dissolution, the parties to said dissolution shall submit to the Court an Affidavit under penalties of perjury. This Affidavit shall include the following:

1. A brief statement of the contested issued.

2. A brief statement of any stipulation or agreement by the parties as to any relevant issues.
3. A listing of the parties' income from all sources for the past two (2) years.
4. A listing of all of the property owned by the parties to the dissolution, together with a indication how such property is or was titled and the estimate for the fair market value of such property when the dissolution was filed. Said listing shall include separately each item worth over one hundred dollars (\$100.00).
5. A listing of the creditors and the amount for all marital debts.
6. A listing of any other factor relevant to the Court's division of marital assets and debts.
7. Proposed division of the marital assets and debts. (The division shall include total net dollar figure that each party will receive.)
8. A statement that the parties have completed the Children Cope with Divorce or similar program

LR 35-AD-00-13

WITHDRAWAL OF ORIGINAL RECORDS AND PAPERS

No person shall withdraw any original pleading, paper, record, model or exhibit from the custody of the Clerk or other officer of the Court except, (1), upon Order of the Court and (2), upon leaving a proper receipt with the Clerk of the Officer.

1. Custody and disposition of models or exhibits.
 - (A) *Custody.* After being marked for identification, models, diagrams, exhibits, and materials offered or admitted in evidence in any cause pending or tried in this Court shall be placed in the custody of the Court Reporter unless otherwise ordered by this Court.
 - (B) *Removal.* All models, diagrams, exhibits, or material placed in the custody of the Court Reporter shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, within four (4) months after the case is decided unless an appeal is taken. In all cases in which an appeal is taken, they shall be taken away within thirty (30) days after the filing of the mandate of the reviewing Court. At the time of removal, a receipt shall be given to the Court Reporter and filed in this cause.
 - (C) *Neglect to Remove.* If the parties or their attorneys shall neglect to remove models, diagrams, exhibits or material within thirty (30) days after notice from the Court Reporter, the same shall be sold by the Sheriff at public or private sale or otherwise disposed of as the Court may direct. If sold, the proceeds, less the expense of sale, shall be paid into the general fund of the County.

LR 35-SC-00-14

SCHEDULING OF SMALL CLAIM CASES

The Clerk of the Huntington County Superior Court shall schedule small claims cases on the Court's small claim calendar docket in accordance with the following limitations:

- (1) No plaintiff shall have more than two (2) contested hearings set for any day. A contested hearing shall be any matter other than proceeding supplemental hearings.
- (2) No plaintiff shall set more than 20 cases per day for proceeding supplementals.
- (3) Small Claim trials are limited to a total of 30 minutes, unless either party has requested, in advance, a longer trial setting.

LR 35-56-00-15

LIMITATION ON FILING PROCEEDING SUPPLEMENTALS

Once a proceeding supplemental has been filed a subsequent Proceeding Supplemental may not be filed for a period of one (1) year unless the Plaintiff submits to the Court a statement demonstrating a material change in the financial circumstances of the Defendant.

LR 35-TR(76/79)-16

APPOINTMENT OF SPECIAL JUDGE

Whenever the appointment of a special judge becomes necessary for any reason, the cause shall be transferred to the other judge within the county. In the event that, that judge declines appointment or the appointment of a special judge becomes necessary after the cause has been transferred, the assignment of a special judge shall be pursuant to the District 3 caseload distribution Rule as set forth below:

DISTRICT 3 CASELOAD DISTRIBUTION RULE

WHEREFORE, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plans.

WHEREFORE, in an effort to comply with the Order of the Supreme Court, the majority of judges in District 3 met to develop an equitable caseload management plan to diminish caseload disparity among the courts of said District.

NOW THEREFORE, by unanimous vote of the assembled judges, the following Uniform Local Rule is submitted for adoption by each county located in District 3.

DEFINITIONS

An “**Over-Utilized County**”, according to the most recent Weighted Caseload Measure (WCLM), is a county in which the judicial officers are utilized at greater than the statewide average.

An “**Under-Utilized County**”, according to the most recent WCLM, is a county in which the judicial officers are utilized at twenty-six (26) or more percentage points below the statewide average.

An “**Other County**” according to the most recent WCLM, is a county in which the judicial officers are utilized from twenty-five (25) percentage points below to the statewide average.

RULE

1. Whenever selection of a special judge is required under Trial Rule 76, Trial Rule 79(H) or any Local Rule adopted hereunder, this shall be the exclusive method for selection of said special judge.

2. In an “Over-Utilized County”, special judges shall be selected exclusively from a list of judicial officers presiding in courts in “Under-Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Over-Utilized Counties”, based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Allen County shall be selected from the nine (9) judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;
- b. Special judges serving DeKalb County shall be selected from the five (5) judicial officers sitting in LaGrange and Steuben counties;
- c. Special judges serving Huntington County shall be selected from the four (4) judicial officers sitting in Adams and Wells counties.

3. In an “Under-Utilized County”, special judges shall be selected exclusively from a list of judicial officers sitting in other “Under-Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Under-Utilized Counties”, based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two (2) judicial officers sitting in Wells County;

- b. Special judges serving LaGrange County shall be selected from the other judicial officer sitting in LaGrange County and the three (3) judicial officers sitting in Steuben County;
 - c. Special Judges serving in Steuben County shall be selected from the other judicial officers sitting in Steuben County and the two (2) judicial officers sitting in LaGrange County;
 - d. Special judges serving in Wells County shall be selected from the other judicial officer sitting in Wells County and the two (2) judicial officers sitting in Adams County.
- 4. In an "Other County", special judges will be selected from counties which are similarly situated. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges, based upon the 1998 WCLM, shall be as follows:
 - a. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two (2) judicial officers sitting in Whitley County;
 - b. Special judges serving in Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three (3) judicial officers sitting in Noble County.
- 5. Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected.

No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

6. The special judge, selected hereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).
7. By requesting a special judge, the parties specifically waive:
 - 1) Selection of a special judge under Trial Rule 79(D), Trial Rule 79(E) and Trial Rule 79(F), and
 - 2) Any objection to the transfer of the proceeding under Trial Rule 79(M) if the special judge should order the same.
8. Each special judge, who receives a case hereunder, shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.
9. Each judge, who assigns a special judge hereunder, shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.
10. This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.
11. The judges in District 3 shall meet on or before May 1 of each year to review the WCLM from the previous year, shall meet during the month

of September in each year to review the impact of this Rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

12. All previous local rules adopted by the judge in District 3 regarding selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

13. This Rule shall be effective as of January 1, 2007.

**CRIMINAL DIVISION
LOCAL RULES**

LR 35-CR-2.2-27

ASSIGNMENT OF CRIMINAL CASES

Pursuant to CR 2.2, assigned Criminal Cases shall be assigned, transferred or appointed as special judge as follows:

1. *CASE ASSIGNMENT.* All cases involving murder or wherein the most serious charge is a Class A felony, a Class B felony or a Class C felony, shall be assigned to the Huntington Circuit Court except that all cases filed under Title 9 or cases involving controlled substances shall be filed in the Huntington Superior Court. All cases involving allegations of child molesting or battery on a child shall be assigned to the Huntington Circuit Court regardless of classification.

All misdemeanors, Class D felonies, offenses relating to controlled substances, and offenses set forth under Title 9 of the Indiana Code shall be assigned to the Huntington Superior Court.

2. *TRANSFER.* A Judge of the Huntington Circuit or Superior Court, by appropriate order entered in the record of Judgments and Orders, may transfer and reassign to the other Court of record any pending case subject to acceptance by the receiving Court.
3. *APPOINTMENT OF SPECIAL JUDGE.* In the event no Judges are available for assignment or reassignment of a felony or a misdemeanor case the appointment shall be pursuant to the District 3 Caseload Distribution Rule.

LR 35-CR-2.1-28

COURT APPEARANCES

1. If an arrested person be released from custody or admitted to bail prior to his first Court appearance, he shall personally appear in court forthwith or at such other time as competent authority may direct.
2. Upon the first appearance of the Defendant, the Court shall inform the Defendant of the charge pending against him and of his rights as required by I.C. 35-33-7-5.
3. The Court shall allow the Defendant reasonable time and opportunity to consult Counsel.
4. The Court shall admit the Defendant to bail as provided by law, or by the Court rule or order.
5. The Court shall fix a time for the Defendant's next Court appearance which shall be the omnibus hearing unless otherwise ordered.
6. In all criminal cases, the Defendant is required to appear personally for appointment of Counsel, waivers of right, initial hearing, omnibus hearing, plea, trial setting, trial, and such other times as the Court may direct.

LR 35-CR-2.2-29**REFILING AND SUBSEQUENT FILINGS**

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the Court from which the dismissal was taken. In the event additional charges are filed against a criminal Defendant subsequent to the assignment of the case, all such additional charges to be resolved in conjunction with the pending case shall be assigned to the Court of initial assignment

LR 35-CR-2.2-30**REASSIGNMENT**

1. In the event a change of Judge is granted or becomes necessary to assign another Judge in any felony or misdemeanor proceedings, the case shall be reassigned or transferred to the other Court of record. Should that Judge be unable to serve for any reason, all pending felony and misdemeanor cases may be reassigned pursuant to the District 3 Caseload Distribution Rule. Judges previously assigned the cases are ineligible for reassignment.

LR 35-CR-2.1-31**APPEARANCE OF COUNSEL**

1. Any attorney representing a Defendant shall appear for such Defendant immediately upon being retained or appointed, by signing and filing an appearance in writing with the Court containing his name, attorney number, address and telephone number and shall serve a copy of said appearance to the office of the Prosecuting Attorney.

2. At such time as the office of the Prosecuting Attorney assigns a case to a Deputy Prosecuting Attorney, that Deputy Prosecuting Attorney shall file a written appearance in the same form as set out above, and shall serve a copy of the appearance on Counsel for the Defendant.

LR 35-CR-00-32

WITHDRAWAL OF COUNSEL

1. Permission of the Court is required to withdraw the appearance of Counsel for a Defendant. I.C. 35-36-8-2 shall govern the granting of such permission.
2. Counsel desiring to withdraw their appearance shall notify the Defendant of such intention, in writing, not less than ten (10) days prior to the Counsel's filing of such motion. Counsel shall further send notice of the filing of said motion to the Defendant, which notice shall indicate the date, time and place of said hearing. It shall be sent by first class mail and shall inform the Defendant of the necessity to be present. A copy of said notice shall be attached to the Counsel's Motion to Withdraw. No withdrawal of appearance shall be granted unless said procedure is followed

LR 35-00-33

INITIAL HEARING AND PLEA

1. Initial hearings shall be conducted pursuant to and in accordance with I.C. 35-33-7-5 et seq.
2. Guilty pleas shall be conducted pursuant to and in accordance with I.C. 35-35-1-1 et seq.

3. All guilty pleas with a plea bargain must be finalized and a plea entered not later than the omnibus/pre-trial date. Any plea of guilty after that time will be on a “straight-up” basis. No plea bargains will be considered by the Court after that date. The Court will deny all requests for a continuance based on the need for further plea negotiations.

LR 35-CR-00-34

TRIAL

1. If the Defendant pleads not guilty, the Court shall determine whether a jury trial is waived and shall fix a time for the trial. The date of trial shall be fixed at such time as will afford the Defendant reasonable opportunity for preparation and for representation by Counsel if desired.
2. A verbatim record shall be taken in all trials.

LR 35-CR-8-35

JURY INSTRUCTIONS

1. All requests for jury instructions tendered in accordance with Criminal Rule 8 and Trial Rule 51 of the Indiana Rules of Trial Procedure must be submitted to the Court, with citations of authority, not later than the day of the final pre-trial conference. Parties are encouraged to utilize the Indiana Pattern Jury Instructions wherever possible.

2. Exceptions to this requirement will be made only when the matters on which the instruction is sought could not have been reasonably anticipated in advance of the trial. Proposed instructions need not be exchanged by Counsel until after the evidence has been submitted.

LR 35-TR-11-36

MOTIONS

1. An application to the Court for an order shall be by motion. A motion other than one made during the trial or hearing shall be in writing. Unless otherwise provided by law or rule, only the original copy of a motion need be filed. It shall state the grounds upon which it is made and set forth the relief or order sought. It may be supported by affidavit. It shall be accompanied by a memorandum of law in support thereof. It shall be signed by an attorney of record or the Defendant personally and shall clearly identify the name, attorney number and address of any attorney filing the same. A rubber stamp or facsimile signature on the original copy shall not be acceptable.
2. All motions requiring a hearing before the Court shall be set on the Court calendar by the moving party after first consulting with opposing Counsel. Any motion requiring a hearing before the Court which is not set for hearing on the Court calendar by the moving party shall be summarily denied.

LR 35-CR-00-37

CONTINUANCES

1. Upon motion of any party, the Court may grant a continuance only upon a showing of good cause and only for so long as necessary, taking into account not only the request of consent of the prosecution or Defendant, but also the public interest in the prompt disposition of the case. All motions seeking a continuance shall be heard by the Court and shall therefore be set for hearing in accordance with Rule LR 35-TR-11-36 (2) above.

LR 35-CR-00-38

FAILURE TO APPEAR

1. If a Defendant fails to appear before the Court when summoned or otherwise ordered by the Court to appear, the Court may summarily issue a warrant for his immediate arrest and appearance before the Court.

LR 35-CR-21-39

PRE-TRIAL DISCOVERY

For all criminal cases filed in the Huntington Circuit or Superior Court, beginning January 1, 2007, the Court now issues the following Discovery Order:

- A. The State shall disclose to the Defense the following material and information within its possession or control at least fourteen (14) days before trial. Discovery shall be continuing in nature through trial.

1. The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.
2. Any written or recorded statements and the substance of any oral statements made by the accused or by a co-Defendant, and a list of witnesses to the making and acknowledgement of such statements.
3. A transcript of those portions of grand jury minutes containing testimony of persons whom the Prosecuting Attorney may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.
4. Any reports or statements of experts, made in connections with the particular case, including results of physical or mental examinations and scientific tests, experiments or comparisons which may be used or relied upon at hearing or trial.
5. Any books, papers, documents, photographs or tangible objects which the Prosecuting Attorney intends to introduce into evidence as a part of his case-in-chief in the hearing or trial or were obtained from or belong to the accused.
6. Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses in its case-in-chief at the hearing or trial.

7. Any evidence, which tends to negate the guilt of the accused as to the offense charged or would tend to mitigate his punishment.

The State may perform these obligations in any manner mutually agreeable to itself and Defense Counsel by notifying Defense Counsel that material and information, described in general terms may be inspected, obtained, tested, copied or photocopied, at specified reasonable times and places.

- B. The Defense shall disclose to the State the following material and information within its possession or control at least fourteen (14) days before trial. Discovery shall be continuing in nature through trial.

1. The names and addresses of persons whom the Defendant may call as witnesses along with a copy of their written statements or a summary of their oral statements and a record of their prior criminal convictions.
2. Any books, papers, documents, photographs, or tangible objects, which are intended to be used at a hearing or trial.
3. Any medical or scientific reports relating to Defendant or Defendant's evidence, which may be used at a hearing or trial.
4. Any defense, procedural or substantive, the Defendant intends to make at a hearing or trial and a significant summary of the basis and authority for the same.

5. Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which will be used or relied upon at a hearing or trial.
- C. Any objections to this Discovery Order must be filed fourteen (14) days before the trial.
- D. Continuing Discovery and Sanctions:
1. Discovery is a continuing order through trial.
 2. No written motion is required except to compel discovery for a Protective Order, or for an extension of time.
 3. Failure of either side to comply with this order fourteen (14) days before trial may result in exclusion of evidence at trial or other appropriate sanction.
- E. This Discovery Order is subject to limitations and there are certain matters not subject to disclosure both of which may be found in the Rules of Court for the Superior Court of the 56th Judicial Court.
- F. The State may be informed of and permitted to inspect and copy or photograph any report of results or testimony relative thereto of physical or mental examinations or of scientific tests, experiments or comparisons, or any other reports or statements of experts which Defense Counsel has in his possession or control, except those portions of reports containing statements made by the Defendant if Defense Counsel does not intend to use any of the material contained in the report at a hearing or at the trial.

G. Any defenses which the Defendant intends to make at the trial; and Defense Counsel shall furnish to the State any of the following information within his possession and control:

1. The names and last known addresses of person he intends to call as witnesses together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to him.
2. Any books, papers, documents, photographs, or tangible objects he intends to use as evidence or for impeachment at a hearing or trial.

LR 35-CR-21-40

STIPULATIONS

1. All stipulations must be in writing, signed by all parties or their Counsel, signed by the Defendant personally, and approved by the Court.

LR 35-CR-21-41

PRE-TRIAL CONFERENCE

1. At any time after the filing of the indictment of affidavit, the Court upon motion of any party or upon its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference, the Court shall prepare and file a memorandum of the matters agreed upon. No admission made by the Defendant or his attorney at the conference shall be used against the Defendant unless the admissions are reduced to writing and signed by the Defendant and his attorney.
2. For all cases set for a jury trial, the Court shall set a final pre-trial conference. At least seven (7) days prior to the final pre-trial conference, the attorneys shall meet and exchange witness list, exhibit list, any Motions in Limine to be filed and proposed jury instructions. At the final pre-trial conference, each party shall submit to the Court their final witness list, exhibit list, any Motions in Limine and proposed jury instructions.

LR 35-JR4-42

SELECTION OF A JURY PANEL

1. When jury panels have been drawn, the clerk shall cause a questionnaire to be sent to each member of such panels to be answered and returned by such persons. Such completed jury questionnaires are confidential and may only be removed from the files of the clerk or Court by an attorney of record giving a proper receipt for a period of twenty-four (24) hours for inspection and copying the same.

LR 35-00-43

PROCEDURE NOT OTHERWISE SPECIFIED

1. If no procedure is specifically prescribed by these rules, the Court may proceed in any lawful manner not inconsistent with these rules or with any applicable constitutional provision, statute, rule of the Supreme Court of Indiana, or local civil rules of the Huntington Circuit and Superior Courts.

LR 35-AD1-50

**HUNTINGTON COUNTY PLAN FOR ALLOCATION OF JUDICIAL
RESOURCES**

After full review of the weighted caseloads of the courts of Huntington County, we the undersigned judges of Huntington County, hereby adopt Local Rule 35-AD1-50 entitled Huntington County Plan for Allocation of Judicial Resources.

On a permanent basis, all criminal cases where Battery on a Child, a class D felony is the most serious charge shall be assigned to the Huntington Circuit Court.

The judges of the Huntington Circuit Court and Huntington Superior Court shall meet on or before December 1st of each year and determine an appropriate ration of DR cases for assignment to each court so as to comply with the caseload allocation required by the Administrative Rule 1.

LR 35-AD15-51

COURT REPORTER COMPENSATION

The undersigned courts comprise all of the courts of record of Huntington County, Indiana and hereby adopt the following local rule by which court reporter services shall be governed.

Section One. Definitions. The following definitions shall apply under this local rule:

1. *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
5. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

6. *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week.
Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
7. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) per work week.
8. *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
9. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Huntington County.
11. *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
12. *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

13. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.
2. The maximum per page fee a court reported may charge for the preparation of a county indigent transcript shall be \$3.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
3. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$3.00.
4. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$3.25.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - a. The reasonable market for the use of equipment, work space and supplies;
 - b. The method by which records are to be kept for the use of the equipment, work space and supplies; and
 - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.